

REPORT

OF

THE JOINT SELECT COMMITTEE

ON

CHEROKEE LANDS.

RALEIGH :

Thos. J. Lemay, Printer to the State.
1850.

[Sess. Doc. No. 12]

REPORT

Dec. 6th, 1850.

Introduced by Mr. FLEMMING. Read the 1st time and passed, and on motion of Mr. Flemming ordered to be printed together with Report and laid on the table.

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REPORT.

The Joint Select Committee "on Western Turnpike and Cherokee Lands," to whom was referred so much of the Governor's Message as relates to the Western Turnpike Road and Cherokee Lands," also a Bill for the relief of the purchasers of Cherokee lands, submitted to the House of Commons and referred to the Committee, have had the same under consideration, and after mature investigation of these subjects, beg leave to Report:

That it is well known to the Legislature, that the Cherokee Lands, which have formed the subject of so much legislation for the last ten years, were acquired by the General Government from the Cherokee Indians, by treaty, in the year 1835; that the Legislature of the State, at the session of 1836, passed an act authorizing a survey and sale of the lands thus acquired, and directed that the Commissioners of Survey should classify the lands into five classes, upon which the Legislature fixed the following prices, that is to say, lands of the first class, should be estimated at four dollars per acre; of the second class, two dollars; of the third class, one dollar; of the fourth class, fifty cents; and of the fifth class, twenty cents. Of the entire territory, there were surveyed two hundred and twenty thousand, eight hundred and fifty two acres, the whole of which was offered at public sale by the Commissioners appointed for that purpose in September, 1838. Of this quantity, one hundred and ninety thousand four hundred and forty acres were sold, bringing the large sum of three hundred and thirty two thousand, five hundred and ninety one dollars and ninety three cents (\$332,591 93.) Of this sum, forty six thousand, four hundred and fifty dollars and seventy-five cents, being the one eighth part, together with some advance payments, was received by the Commissioners at the time of sale and paid into the public Treasury; the residue of surveyed lands not commanding the State prices, were knocked off to the State, and remain yet undisposed of. According to the classification of the lands by the Commissioners of Survey, the quantity actually sold would amount, at the prices fixed by the State, to the sum of \$86,031 45; whereas they sold, as before stated, for the sum of \$332,591 93, being \$246,560 48 more than the State valuation. The State has already received, on account of this sale, including the amount paid at the time, the sum of \$187,656 22, being more than double the amount fixed, by the act of 1836, as the sum which the State was willing to take for these lands.

Your Committee deem it not out of place, to a proper under-

standing of this subject, to assign some of the reasons which operated to produce the enormous prices at which these lands sold. The Cherokee tribe of Indians, from time immemorial, inhabited the Western portion of this State. By the Cherokee treaty of 1828, such of the tribe, as desired to remove West of the Mississippi River, were to be paid for their improvements abandoned. The Agent, who superintended the removal of the Indians, permitted white citizens to move in and settle those improvements abandoned by the Indians; and in addition to cultivating the small improvements of the Indians added thereto valuable improvements, many of them anticipating the removal of the Indians, and that they would be pre-emption rights: when the lands were disposed of by the treaty of 1835, the Cherokee Indians were, except a few individuals who became subject to the laws of the State, to remove west of the Mississippi within a given time. This event had long been expected, from the known policy of the General Government in relation to the Indian tribes within the States. Consequently, many citizens of the State, who otherwise would have gone to the Western or South-western States, removed into the Indian Territory, with a view of making an early settlement and preparing to secure themselves homes whenever the lands should be brought into market. Most of these emigrants were from Western counties in this State, and the proportion proved to be rather larger by the time the sales came on hand than the lands would fairly supply. The Indians, notwithstanding their treaty obligations to remove, refused to go, and the General Government was obliged to order out a large force to compel their removal. A considerable portion of these troops were stationed in the country for near two years and had to draw many of their supplies from the country itself. This created a ready demand and a high price for every article which the country could afford; and so long as the troops remained, a fictitious prosperity was produced throughout the entire Cherokee territory. Money became very abundant, and a false idea of the facilities which the country afforded for making money, seemed to pervade the whole community. It was just after the withdrawal of the United States troops that the sales of 1838 occurred. The people who had thus been making money rapidly for two or three years preceding, with false ideas of the true value of the lands, excited by competition from abroad, and desirous of securing the homes of their own selection, and without there not being valuable lands enough to supply the demand, may well be supposed to have run into excess and extravagance, not justified either by a due regard to their own

interests or those of the State. Time proved this to have been the case. For under the provisions of an Act of Assembly, passed in the year 1844, constituting a commission for the purpose, nearly one half of the debt then due the State on account of these lands, was reported as insolvent, and by the provision of the same act, the purchasers were authorised to surrender the lands to the State. Hence, it became necessary that some new provision should be made for the disposition of these lands; and by an Act, passed at the last Session, a Board of Valuation was constituted, to place a fair value upon these lands, with a pre-emption right to the first purchasers to take them for a given period; and at the expiration of that time, they should be subject to purchase at the valuation fixed upon them, by any person who might choose to take them. All, except thirty seven tracts, have been disposed of. These still remain untaken, either by the original purchasers or other persons; but provision is made in the accompanying bill, which your Committee think will ensure their being taken up in a reasonable time.

The Legislature having thus, by the Act of the last Session, absolved the original purchasers (who were reported as insolvent) from their contracts with the State, and permitted them to take the lands at a new valuation, upon their paying one fourth the amount thereof to the State, and securing the residue, or, in other words, entering into a new contract, your committee cannot perceive any reason, in view of all the circumstances of the case, why those who were reported as solvent purchasers should not be placed on an equal footing, at least, with those who were insolvent or unable to pay. Your Committee believe that every principle of Justice, equality and fair dealing demand this relief in behalf of those who have been honestly endeavoring, for ten years past, to comply with their engagements to the State, but who, in consequence of the exorbitant prices paid for the lands purchased, and the depressed price of produce, have been unable to do so, however much they desire it. For the purpose of affording the relief prayed for, your Committee have instructed the undersigned to report the accompanying bill, and recommend its passage.

All of which is respectfully submitted.

SAML. FLEMMING,

A member of the Committee.

A BILL

To provide relief for purchasers of Cherokee Lands, secure debts due to the State, and authorize the sale of lands surrendered to the State under the acts of 1844-5 and 1846-7.

Whereas by acts of the General Assembly, passed at the sessions of 1844-5 and 1846-7, all persons who purchased lands at the sale of 1838, and who were unable to pay for them, were authorized to surrender said lands to the State; and whereas a large number of tracts were surrendered under the provisions of said Act; and whereas as by the subsequent Act of 1846-7, those lands were assessed by agents appointed under said Act, and the purchasers were, upon giving new bonds with approved security, permitted to take up the lands surrendered at the price fixed upon them by the agents of the State; and whereas it is but just and right that all purchasers should have the same measure of relief extended to them:

I. *Be it therefore, enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same:* That the County Court of Cherokee County, a majority of the Justices of the Peace being present, shall appoint a suitable person residing in said County, and the Governor of the State shall appoint two others, not residents of Cherokee County, who shall constitute a Board of valuation, whose duty it shall be to value all the lands surrendered to the State and have not been taken up, also the lands of insolvent purchasers which have not been surrendered, as well as the lands of solvent purchasers (if desired to do so by such solvent purchasers) at a fair valuation, that is to say what such lands were worth in 1838, taking into consideration the localities of said lands and the facilities the purchasers may have in the transportation of their produce to market, and all other circumstances which tend to increase or diminish the value of the lands so valued above or below what they are estimated to have been worth when sold by the State in the year 1838.

II. *Be it further enacted,* That in order to guard the in-

2 terest of the State, the said Board of Commissioners shall
3 have no power to reduce the price of any lands valued
4 by them, below the valuation placed thereon by the Com-
5 missioners, appointed to superintend their survey under
6 the Act of 1836, under which Act the first quality was
7 valued at four dollars per acre, the second quality at two
8 dollars and the third quality at one dollar per acre, the
9 fourth quality at fifty cents, and the fifth quality at
10 twenty cents per acre. Provided further, that the said
11 Board of Commissioners in valuing the lands of the sol-
12 vent purchasers, under this act, shall have no power to
13 reduce the price of any tract below one half of what it
14 sold for in 1838. And it shall be the duty of the Board
15 of Valuation, to make out duplicate lists of such valuation
16 as soon as may be. One copy of which shall be filed in
17 the Office of the Clerk of the County Court of Cherokee
18 County, and the other they shall transmit to the Govern-
19 or of the State, to be filed in his Office, and the same
20 shall form a part of the records of said Offices.

III. *Be it further enacted*, That the Commissioners here-
2 by authorized to be appointed, shall within sixty days
3 after the acceptance of their appointment, meet at the
4 Town of Murphy in the County of Cherokee for the pur-
5 pose of proceeding in the execution of their duties; that
6 the Commissioner appointed by the County Court of
7 Cherokee County shall advertise for thirty days previous-
8 ly at the Court House and three other public places in
9 said County, and also in both the newspapers published at
10 Asheville, the time and place of meeting of the said com-
11 missioners. And all persons desirous of taking the benefit
12 of this act shall with ten days next preceding the day ap-
13 pointed for meeting of the commissioners aforesaid, apply
14 either in person or by agent to the commissioner appointed
15 by the County Court of Cherokee County, whose duty it
16 shall be to attend for that purpose, and render unto him
17 a list containing the number of the tracts of land, the dis-
18 trict in which they lie, and the number of the sections of
19 all the lands they desire to be valued under the provisions
20 of this act. And the said Commissioner shall enter the
21 same in regular order in a book prepared for that pur-
22 pose, so that the Board of Valuation may when met pro-
23 ceed in the performance of their duty as herein required.

IV. *Be it further enacted*, That the Commissioners afor-
2 said shall take and subscribe an oath before some Justice of
3 the Peace of Cherokee County, that they will in accor-
4 dance with the provisions of this act, and to the best of

5 their judgments, value the land aforesaid fairly and im-
6 partially as between the purchasers or those entitled to
7 their privileges and the State, and that they will endeavor
8 or to do equal and impartial justice between the purchas-
9 ers themselves; and the said board shall give to each of
10 the purchasers, or the persons entitled to their privileges
11 whose lands they may value, a certificate setting forth the
12 district, section and valuation of each tract valued by
13 them as aforesaid.

V. *Be it further enacted*, That the Comptroller of public
2 accounts shall furnish as may be, after the passage of
3 this act, to the agent of the State, who may be entrusted
4 by law with the collection of Cherokee bonds, a full and
5 complete statement, containing the names of all the purchasers
6 of Cherokee lands at the sale of 1838, who were
7 returned solvent under the act of 1844, also the names
8 of all the purchasers whose lands have been surrendered
9 to the State; which statement shall exhibit the amount
10 of the bonds given for the original purchase of each tract
11 of land, together with the date of the same and the several
12 payments made thereon, together with the date of
13 each payment. And upon the receipt of the said statement,
14 the agent shall proceed upon application of the
15 purchasers aforesaid; and upon their producing the certificate
16 of the board of valuation showing the amount of the
17 valuation of each tract, to deduct the payments which
18 have been made to the State on each tract, from the valuation
19 thereof, and for the balance due, if any, he shall
20 take from the purchasers, or such other person or persons
21 as may be entitled to the privileges of the original purchaser,
22 bonds with good and sufficient security, payable
23 in four annual instalments.

VI. *Be it further enacted*, That upon the settlement
2 provided for in the last preceding section being made,
3 and new bonds with good and sufficient security, to be
4 approved of by the agent of the State, being given, the
5 said agent is hereby authorized to cancel and surrender
6 up to said purchasers, their heirs, devisees or assignees all
7 the bonds given to the State for the said lands: *Provided*,
8 *nevertheless*, that in case more than one tract shall
9 be included in the same bonds and only a part of the
10 tracts valued, then and in that case the agent shall not
11 deliver up the bonds to the purchaser, but credit them for
12 the tracts valued upon new bonds being given for such
13 tracts, as in other cases where separate bonds had been
14 given for each tract.

VII- *Be it further enacted*, That as a full compensation
 2 for the performance by them of the duties herein requir-
 3 ed, the said board shall be allowed the sum of three dol-
 4 lars each for every day they may be necessarily engaged
 5 in the discharge of the duties herein required, and three
 6 dollars for every thirty miles in travelling to and from
 7 Murphy, to be paid by the agent of Cherokee lands out
 8 of any monies in his hands, upon the affidavits of the mem-
 9 bers of the board, setting forth the number of days each
 10 may have served; and their receipts shall be received by
 11 the Public Treasurer from the said agent of Cherokee
 12 lands as cash, in any future settlement with him; and
 13 the said agent shall be allowed such compensation for
 14 the additional services required of him by this act, as
 15 the Governor, Treasurer and Comptroller may allow, on
 16 satisfactory proof being made to them, of the number of
 17 days which the said agent may have served, or such other
 18 evidence of the amount of service performed by him un-
 19 der this act.

A BILL

TO

INCORPORATE

THE WILMINGTON AND TOPSAIL SOUND

PLANK ROAD COMPANY.

Dec. 5, 1850.

[Introduced by Mr. NIXON. Passed first reading and referred to the Committee on Internal Improvement and ordered to be printed.]

A BILL.

To incorporate the Wilmington and Topsail Sound Plank Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open Books in the town of Wilmington, under the direction of Thos. H. Wright, Dugald McMillan, Miles Coston, Hiram R. Nixon, John A. Saunders, Samuel Berry, or any two of them; at Topsail Academy, under the direction of Obed. F. Alexander, David R. Gointo, Nich's. F. Nixon, David K. Futch, Edward St George, and Joseph M. Foy, or any two of them; at Sandy Run, under the direction of David S. Saunders, Thos. Hans-

12 ley, John W. Howard, Alonzo Nixon, Robert J. Howard,
13 and Charles Alexander, or any two of them, for the pur-
14 pose of receiving subscriptions to an amount not exceeding
15 Fifty Thousand Dollars, in shares of fifty dollars each,
16 for the purpose of effecting a communication between the
17 town of Wilmington and some point in the Eastern line
18 of the County of New Hanover, between Holly Shelter
19 Pocosin and the Sound, the route to be followed and the
20 points of communication between said places to be deter-
21 mined by said Company after the same shall have been
22 formed.

II. *Be it further enacted*, That the times and places
2 of receiving such subscriptions shall be advertised in
3 one or more of the Papers published and printed in the
4 town of Wilmington; and the books for receiving the same
5 shall not be closed within ten days after the opening; and
6 said Commissioners shall have power to open books,
7 from time to time, as they think proper, until the whole
8 number of shares be subscribed.

III. *Be it further enacted*, That when the sum of
2 Ten Thousand Dollars shall be subscribed for in man-
3 ner aforesaid, the subscribers, their executors, administra-
4 tors or assigns, shall be, and they are hereby declared to be
5 incorporated into a Company by the name and style of
6 "the Wilmington and Topsail Sound Plank Road Compa-
7 ny," and by that name shall be capable in law of purchas-
8 ing, holding, selling, leasing and conveying Estates, real,
9 personal and mixed, so far as may be necessary for the
10 purposes of said Company, either in constructing said
11 Road or managing the affairs of said Company; and shall
12 have perpetual succession, and by said corporate name may
13 sue and be sued, and may have a common seal, which
14 they shall have power to alter and renew at pleasure,
15 and shall have and enjoy, and may exercise all the pow-
16 ers, rights and privileges which other corporate bodies
17 may lawfully do, for the purposes mentioned in this act,
18 and may make all such By Laws, rules and regulations
19 not inconsistent with the laws of this State, or of the
20 United States, as shall be necessary for the well ordering
21 and conducting the affairs of said Company.

IV. *Be it further enacted*, That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said Commissioners or their agents appointed to receive such subscriptions, the sum of one dollar, on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the Board of Directors of said Company.

V. *Be it further enacted* That the said Commissioners or their agents shall forthwith after the first election of a Board of Directors of the company, pay over to said Directors all monies received by them, and on failure thereof, the said Directors may, in the name of said company, recover the amount due from such commissioners in the Courts of Pleas and Quarter Sessions, or in the Superior Courts of Law of the County of New Hanover, or by warrant before any Justice of the Peace for said County.

VI. *Be it further enacted*, That when Ten Thousand Dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Wilmington, who shall at the same time call a general meeting of the Stockholders at such convenient place and time as they shall name in said notice.

VII. *Be it further enacted*, That to constitute such meeting, a majority of the stockholders shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn, from time to time, until a meeting shall be formed.

VIII. *Be it further enacted*, That the subscribers at such general meeting, and at every annual meeting thereafter shall elect a President and eight Directors, who shall continue in office until the next annual meeting of the Stockholders as aforesaid, and until their successors shall be elected. The President with any three or more Directors, or, in the absence of the President, four or more Directors, one of whom is the appointee of the President as is hereinafter provided, shall constitute a Board for the transaction of the general business of the Company. The President shall and may designate and appoint, in writing, any one of the Directors to act as President *pro tem.* during his absence: and such appointee of the President shall have all the rights and powers of the President during the absence of the President. In case of a vacancy

16 in the Board of Directors happening from death, resigna-
17 tion or otherwise, such vacancy may be supplied by the
18 appointment by the Board of any one of the stockholders,
19 who shall act as a Director until the next annual meet-
20 ing of stockholders.

IX. *Be it further enacted*, That the said company
2 shall be, and they are hereby invested, with all the
3 rights and powers necessary for the construction, repairs,
4 and maintaining of a Plank Road to be located as afore-
5 said, with such branches diverging from the main stem
6 as the stockholders in general meeting may authorise
7 and cause to be made, and also to make and construct
8 all works whatsoever, which may be necessary to the
9 completion of said Road and all its branches.

X. *Be it further enacted*, That the said Board of
2 Directors shall have power to make contracts with
3 any person or persons on behalf of the company, for
4 making the said Plank Road, together with any branch-
5 es of the same, and performing all other things respect-
6 ing the same, which they shall deem necessary and
7 proper; and to require from the subscribers, from
8 time to time, such instalments on their stock as they
9 may deem necessary for the purposes of the com-
10 pany until the whole of their subscriptions shall be
11 paid; to call, on any emergency, a general meeting of
12 the stockholders, giving one month's notice thereof in
13 one or more of the newspapers printed in the town of
14 Wilmington; to appoint such officers as they may deem
15 necessary to transact the business of the company, taking
16 from them bond and sufficient security for the faithful
17 discharge of their several duties and duly accounting
18 for all monies coming into their hands; and generally to
19 transact all the business of the company between the gen-
20 eral meetings of the stockholders.

XI. *Be it further enacted*, That if any stockholder
2 shall fail to pay the sum required of him by the board
3 of directors or by a majority of them, within one month
4 after the time the same shall have been advertised in
5 one or more of the newspapers published in the town of
6 Wilmington, it shall and may be lawful for said board of
7 directors, or a majority of them (having first notified in
8 writing such defaulting stockholder of their intention so
9 to do) to sell at public auction and to convey to the pur-
10 chaser the share or shares of such stockholder so failing
11 or refusing, giving one month's previous notice of the
12 time and place of sale in manner aforesaid; and after

13 retaining the sum due and all the charges of the sale,
14 out of the proceeds thereof, to pay the surplus over to such
15 stockholder or to his legal representatives; and if the
16 said sale shall not produce the sum required with all in-
17 cidental charges attending such sale, then the said board
18 of directors may recover the balance of the original pro-
19 prietor or his assignee or the Executor or Administrator,
20 or either of them, by suit in any court of record having
21 jurisdiction thereof, or by warrant before any Justice of
22 the Peace of the county of which he is resident; and
23 any purchaser of the stock of the company under a sale
24 by order of the board of directors, shall be subject to
25 the same rules and regulations as the original proprie-
26 tors.

XII. *Be it further enacted*, That said company by
2 their officers or agents may agree with the owners of any
3 land over which said road or any of its branches is intended
4 to pass for the purchase of a roadway, and also for the pur-
5 chase of suitable locations for their toll houses, toll gates
6 and other necessary buildings; the land for such road
7 way not to exceed one hundred feet in width, and the
8 land necessary for sites for their buildings or erections as
9 aforesaid not to exceed five acres in any one parcel; and
10 in case of disagreement with the owner of such land, or
11 if the owner be *femme covert*, *non compos*, under age,
12 or out of the State, said company by their officers or a-
13 gents may apply to any two Justices of the Peace for the
14 county of New Hanover, who shall thereupon issue their
15 warrants to the sheriff of said county to summon eighteen
16 disinterested freeholders to meet on the land to be valued
17 on a day to be expressed in such warrant, which shall be
18 within twenty and not less than ten days from the issu-
19 ing thereof; and the sheriff upon receipt of any such war-
20 rant shall summon such freeholders accordingly, and
21 when met he shall by lot draw twelve of them, who
22 after being duly sworn shall impartially estimate the
23 value of so much of said land as may be required for the
24 roadway, or for the site for any building or erection re-
25 quired by said company, as the case may be; the width
26 of such roadway and the land for such sites for any build-
27 ing or erection to be and contain the maximum quantity
28 of land which said company is by previous provisions of
29 this section authorised to acquire by purchase upon agree-
30 ment with the owner; and after said Jury has duly con-
31 sidered the damages sustained by the owner of said land
32 and assessed the same, the sheriff shall cause said inqui-

33 sition to be reduced to writing and signed by the Jury
 34 and countersigned by himself, and returned to the clerk
 35 of the county court to be recorded.

XIII. *Be it further enacted,* That it shall and may
 2 be lawful for the said board of directors, to demand and
 3 receive at some convenient toll gates to be by them erect-
 4 ed, a reasonable toll from all persons using said plank
 5 road or any of its branches.

XIV. *Be it further enacted,* That the road hereby
 2 authorised to be made, shall not be less than eight nor
 3 more than thirty feet wide; and that as soon as five miles
 4 in extent shall have been constructed, it shall and may
 5 be lawful for the said board of directors to demand and
 6 collect such toll from persons using said road as may be
 7 by them determined, in accordance with the rates impos-
 8 ed by the thirteenth section of this act, and in like pro-
 9 portion for a greater extent of road; and if any person or
 10 persons shall forcibly or fraudulently pass any toll gate
 11 thereon without having paid the legal toll there due, or
 12 without the consent of the toll gatherer at such gate; or
 13 if any person or persons, to avoid paying toll, shall with
 14 his team, carriage, cart or other vehicle or with his horse
 15 or horses or other beasts with no vehicle to them attach-
 16 ed, turn out of said road before reaching any toll gate
 17 thereon; or if any person or persons shall fraudulently
 18 use said road between any of the places where tolls are
 19 collected thereon, on any part or portion of said road
 20 without paying the toll due for the portion of said road
 21 so used by him, every such person or persons violating
 22 any one or more of the provisions of this section shall
 23 severally, if a white man or a free person of colour, pay a
 24 fine of five dollars, to be recovered in the name and for
 25 the use of said company, by warrant before any Justice
 26 of the Peace for the county of New Hanover; and if a
 27 slave, shall receive such punishment by whipping as shall
 28 be adjudged by any Justice of the Peace for the county
 29 of New Hanover, under a warrant to be issued in the
 30 name of said company against such slave: *Provided, how-*
 31 *ever;* that such whipping shall in no case exceed twenty-
 32 five lashes.

XV. *Be it further enacted,* That if any person or per-
 2 sons shall wilfully or maliciously injure, or in any man-
 3 ner damage or obstruct, or shall wilfully or maliciously
 4 cause, aid, assist, counsel or advise any other person or
 5 persons to injure, damage, or obstruct said plank road,
 6 toll gates or toll houses, or any of the property or effects

7 of said company, such person or persons so offending;
8 shall be liable to be indicted therefor, and, on conviction,
9 shall be imprisoned or fined at the discretion of the court,
10 before which said conviction shall take place.

XVI. Be it further enacted, That distinct accounts
2 of the proceedings and disbursements of the board, shall
3 be made by them, to the annual meetings of the stock-
4 holders: *Provided*, that if a number of stockholders
5 holding one-fourth in amount of the capital stock of said
6 company, shall ask of the board, in writing, a call of a
7 general meeting of the stockholders, such meeting shall
8 be called, and to such meeting the board shall make a
9 report similar in all respects to the one required to be
10 made at annual meetings.

XVII. Be it further enacted; That whenever, in the
2 construction of said road, it may be necessary to cross or
3 intersect any established road or way, it shall be the duty
4 of the board of directors so to construct the said plank
5 road across such established roads or ways, as not to im-
6 pede the passage or transportation of persons or property
7 along the same; and if, in the construction of said plank
8 road, or any of its branches. or of any toll gate or toll
9 house, it may become necessary or expedient to use or
10 change any portion of any established public road or
11 way, it may be lawful for said board of directors to
12 change the said roads at points where they may deem it
13 necessary or expedient to do so, and that for entering
14 upon or taking any land necessary therefor, they shall be
15 and are hereby authorised to proceed under the provis-
16 ions of this act, as in case of land necessary for the plank
17 road: *Provided further*, that previous to making any
18 such change, the said company shall make and prepare
19 a road equally good with the road proposed to be used
20 by them; but nothing hereina contained shall be so con-
21 structed as to make it incumbent on said company, to
22 keep in repair the portion of any road which they may
23 have changed as aforesaid.

XVIII. Be it further enacted, That this act shall be
2 in force from and after the ratification thereof, and shall
3 be regarded as a public act, and be continued in force for
4 thirty years.